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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,388	08/04/2006	Jim A. Rivera	60469-106 PUS1; PA-000.05	7135
7590 07/27/2009				
John M Siragusa Carlson, Gaskey & Olds 400 W Maple Road Suite 350 Birmingham, MI 48009			EXAMINER KRUER, STEFAN	
			ART UNIT 3654	PAPER NUMBER
			MAIL DATE 07/27/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/588,388	Applicant(s) RIVERA, JIM A.
Examiner Stefan Krueer	Art Unit 3654

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 July 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

/John Q. Nguyen/
Supervisory Patent Examiner, Art Unit 3654

Continuation of 11, does NOT place the application in condition for allowance because:

With respect to applicant's argument that the term "overlapping" as rejected under USC 112, 1st paragraph, is supported by applicant's disclosure, as stated in the rejection, the term was interpreted in part by applicant's review of prior art cited in applicant's disclosure, in which "... portion[s] of clips overlap a guide rail whereas applicant's invention, as understood, is directed to ... generally rectangular plates that rest one atop the other (Para. 0021 of published application)" as well as the definition of said term as colloquially known, which supports applicant's review of his cited prior art but not applicant's invention, as understood. Examiner appreciates that calling into question an interpretation of said term and an associated orientation of the relevant elements (30A, 30B, Fig. 3) of applicant's disclosure as described and depicted may seem pedantic, but Examiner believes that there is noteworthy discrepancy between said term and applicant's invention as understood.

With respect to the applicant's arguments that the recitation "... first and second clips securable to each other..." is not disclosed by the prior art of record, Karol, in that the clips of the prior art are secured to each other by "... a common intermediate part", Examiner believes that the recitation is met by Karol as understood and reviewed by applicant.

With respect to applicant's argument that Claim 22 "... recites a fastening member at least partially received in openings..." that is not disclosed by Karol as interpreted by Examiner, applicant is directed to a previous recitation "... wherein each of said first segments includes at least one opening..." that Examiner contends is disclosed by Karol. Examiner did fail to object to/reject the depending recitation in view of the recited "... at least one opening..."; however, applicant's argument with respect to said opening remains unpersuasive.

Applicant's argument with respect to the rejection of Claim 31 and the recitation "... establishing a selectively adjustable clamping dimension..." is appreciated; however, applicant's attention is directed to Col. 4, L. 18 of the disclosure of Karol as referenced in the rejection, wherein said disclosures states accordingly "The spacing between the center lines 184 and 186 of openings ... is selected to provide the spacing 188 (FIG. 3) between the spacer buttons which will snugly but slidably accept the width dimension across the back 34 of the guide rail 12.", wherein "The spacing ... is selected to provide the spacing.... which will snugly but slidably accept ... the back of the guide rail..." has been interpreted by Examiner to meet the claim language. Therefore, though understood, applicant's argument is not persuasive.

With respect to Claims 24 - 25, applicant has not argued the teachings of the secondary reference, but rather reiterated the primary reference, Karol, in anticipating the language of the independent claim.

Finally, applicant's disappointment with respect to Claim 37 and the interpretation of Karol in view of McDermott is understood; however, in view of the claim language and the pertinent art of McDermott supports his disclosure and teaching(s) derived therefrom.